

ASSEMBLY BILL

No. 979

Introduced by Assembly Member Negrete McLeod

February 20, 2003

An act to add Chapter 11 (commencing with Section 3550) to Division 4 of Title 1 of the Government Code, relating to employer-employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 979, as introduced, Negrete McLeod. Employer-employee relations: corrections: arbitration.

The existing Bill of Rights for State Excluded Employees, which includes supervisory employees of the Department of Corrections and the Department of the Youth Authority, provides that state excluded employees, as defined, have specified rights in connection with employer-employee relations. Existing law provides that an excluded employee may file a grievance, as specified, which is governed by rules and regulations of the Department of Personnel Administration.

This bill would establish a procedure for arbitration of grievances filed by supervisory employees of the Department of Corrections or the Department of the Youth Authority, including a mini-arbitration procedure, for arbitration of a grievance alleging a violation of the Department of Corrections Manual or the Department of the Youth Authority Manual. Under this procedure, an employee or employee organization representing that employee may seek mini-arbitration if the grievance has not been resolved to the employee's or employee organization's satisfaction after the first or 2nd level of review pursuant to regulations of the Department of Personnel Administration governing grievances for excluded employees. The bill also would

establish an arbitration procedure for grievances that allege a violation of specified state regulations that would be available after the grievance has advanced to the 3rd or 4th level of review.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that supervisory
2 employees of the Department of Corrections and the Department
3 of the Youth Authority shall have the same rights to arbitration and
4 mini-arbitration as provided to nonsupervisory employees of
5 those departments pursuant to the existing memorandum of
6 understanding for State Bargaining Unit 6.

7 SEC. 2. Chapter 11 (commencing with Section 3550) is added
8 to Division 4 of Title 1 of the Government Code, to read:
9

10 CHAPTER 11. CORRECTIONS ARBITRATION ACT
11

12 Article 1. Mini-arbitration
13

14 3550. This chapter shall be called, and may be cited as, the
15 Corrections Arbitration Act.

16 3551. For purposes of this article:

17 (a) "Department" means the Department of Corrections or the
18 Department of the Youth Authority, as the case may be.

19 (b) "Employee" means a supervisory employee of the
20 Department of Corrections or the Department of the Youth
21 Authority.

22 (c) "Employee organization" means any organization that
23 represents supervisory employees of the Department of
24 Corrections or the Department of the Youth Authority.

25 (d) "Employer" means the Department of Corrections or the
26 Department of the Youth Authority.

27 (e) "Mini-arbitration" is the arbitration procedure set forth in
28 this article.

29 3552. An employee who has filed a grievance with the
30 department, or an employee organization representing that
31 employee, may request mini-arbitration of the grievance if both of
32 the following conditions are met:

1 (a) The grievance alleges a violation of the Department of
2 Corrections Manual (DOM) or the Department of the Youth
3 Authority Manual (YAM).

4 (b) The grievance has not been resolved to the employee's or
5 employee organization's satisfaction after the first or second level
6 of review pursuant to regulations of the Department of Personnel
7 Administration governing grievances for excluded employees.

8 3553. The department shall conduct a mini-arbitration for the
9 purpose of resolving any grievance for which an employee or
10 employee organization has requested mini-arbitration at each of its
11 correctional facilities at least quarterly or more frequently
12 whenever five requests for mini-arbitration are pending. The
13 mini-arbitration may be held at another location if mutually agreed
14 to by the employer and the employee or employee organization
15 that has requested mini-arbitration.

16 3554. The arbitrator shall be selected from a list of arbitrators
17 agreed to by the employer and the employee or employee
18 organization.

19 3555. The employee who filed the grievance, a representative
20 of an employee organization, and no more than two employer
21 representatives may appear before the arbitrator to make an oral
22 presentation. The parties may present to the arbitrator only the
23 facts, documents, and arguments already presented during the
24 lower levels of the grievance process. No party may be represented
25 by an attorney in a mini-arbitration. Only the arbitrator may ask
26 questions of the parties.

27 3556. The arbitrator shall issue a decision for each grievance
28 heard during a mini-arbitration. The decision shall be based solely
29 on the written record in the grievance, the grievance response, and
30 the oral presentations made at the mini-arbitration. The
31 arbitrator's decision shall be final and binding, but shall have no
32 precedential value.

33 3557. The arbitrator's decision shall direct the losing party to
34 pay the costs of the mini-arbitration or, if there is no losing party,
35 apportion costs according to the outcome of the mini-arbitration.

36 3558. An employee who files a grievance or a representative
37 of an employee organization may attend the mini-arbitration
38 without loss of compensation. Upon receipt of notice at least 14
39 days prior to a mini-arbitration, the employer shall accommodate
40 a request for a shift change or use of accumulated time off from an

1 employee requesting mini-arbitration or a representative of an
2 employee organization who is scheduled to work first or third
3 watch on the day of the mini-arbitration.

4
5 Article 2. Arbitration
6

7 3559. An employee who has filed a grievance with the
8 department or an employee organization representing that
9 employee may request arbitration of the grievance if all of the
10 following conditions are met:

11 (a) The grievance alleges a violation of Subchapter 1
12 (commencing with Section 1) of Chapter 1 of, Subchapter 1
13 (commencing with Section 599.600) of Chapter 3 of, Division 1
14 of, and Chapters 1 (commencing with Section 7285.0) and 2
15 (commencing with Section 7286.0) of Division 4 of, Title 2 of the
16 California Code of Regulations.

17 (b) The grievance has not been resolved to the employee's or
18 employee organization's satisfaction after the third or fourth level
19 of review pursuant to regulations of the Department of Personnel
20 Administration governing grievances for excluded employees.

21 (c) The employee or employee organization requests
22 arbitration in writing, and submits the request for arbitration to the
23 Department of Personnel Administration, within 21 days of a
24 decision rendered in the third or fourth level of review.

25 3559.1. (a) The department and the employee or employee
26 organization shall designate a standing panel of at least 20
27 arbitrators who shall be available for arbitration under this article.

28 (b) After a request for arbitration is made, the employee or
29 employee organization and the employer shall alternately strike
30 the name of an arbitrator from this panel until the name of one
31 arbitrator remains. The remaining person shall be designated the
32 arbitrator. The request to strike arbitrators from the panel shall be
33 submitted in writing to the Department of Personnel
34 Administration.

35 (c) If the employee or employee organization has not submitted
36 its first request to strike an arbitrator from the panel within 180
37 days after requesting arbitration, the request for arbitration shall
38 be considered withdrawn.

39 (d) If an employee or employee organization has requested
40 arbitration and there are less than three arbitrators on the panel,

1 then the employee or employee organization or the employer may
2 seek a list of five arbitrators from the American Arbitration
3 Association or the California Mediation and Conciliation Service,
4 from which list the parties shall alternately strike names in order
5 to designate an arbitrator.

6 3559.2. (a) The parties may not file postarbitration briefs
7 unless mutually agreed by the parties.

8 (b) The arbitrator shall issue a written decision, which shall be
9 binding upon the parties, within 60 days of the conclusion of the
10 arbitration.

11 3559.3. The arbitrator's decision shall direct the parties to pay
12 equal shares of the cost of the arbitration.

